

OGC Has Reviewed

MEMORANDUM FOR: Chief, Audit Staff

FROM : F. W. M. Janney
Director of Personnel

VIA : Deputy Director for Administration

SUBJECT : Report of Audit of Employee Activity
Association through 31 December 1975

REFERENCE : Memo to D/Pers from C/Audit Staff dtd
5 May 76, subj: Reports of Audit

1. While the referent Report of Audit contained no recommendations, certain observations were made, on which we comment below.

2. The Report of Audit noted that the EAA Bylaws are not clear as to the extent to which the President may act unilaterally in certain areas of EAA management. The EAA Bylaws provide that the President "shall have and exercise general charge and supervision of the affairs of the corporation." We believe this authority empowers the President to take a variety of actions related to EAA management. Nonetheless, we have confirmed by Board approval certain of the matters noted in the Report of Audit. As indicated in the audit observations, the President has used his authority in the past to:

a. Invest EAA funds - This involves the deposit of EAA funds in the Credit Union and the purchase of certificates of deposit in local savings and loan institutions. This action was brought to the attention of the EAA Board on 20 April 1976.

b. Borrow monies from the Credit Union - The President approved the use of a short-term loan from the Credit Union in order to pay for the block of Redskin tickets that are sold annually. In the past, money had been withdrawn from the EAA account for this expenditure. It was determined in discussions with

- 2 -

the Credit Union that it would save EAA money to handle the transaction with a short-term loan. This procedure was approved at a meeting of the EAA Board on 20 April 1976.

c. Appoint a store manager - It is believed that the President has sufficient authority within the Bylaws to select EAA employees. In the future, however, such appointments will be entered in the minutes of Board meetings.

4. The final EAA audit observation involves the use of appropriated fund employees by EAA. While the report speaks of five employees, there are actually only four EAA contract employees. The fifth individual, [redacted], operates STATINTL the physical fitness room which is an Agency activity separate and apart from EAA. We agree that our authority to continue this practice should be reconfirmed and will request an OGC opinion.

(SAC) F. W. M. Janney

F. W. M. Janney

Attachment:
Reference

Distribution:

Orig - Addressee

1 - DDA

1 - D/Pers

2 - C/BSD (1 w/held)

STATINTL

OP/BSD [redacted]:gec (4 Jun 76)

MEMORANDUM FOR: Director of Personnel
SUBJECT : Reports of Audit

Audit Reports are attached for the following non-appropriated fund activities:

- (1) Government Employees Health Association, Inc., 31 December 1975.
- (2) Employee Activity Association, 31 December 1975.
- (3) Consolidated Charities, 26 January 1976.
- (4) Public Service Aid Society, 31 December 1975.
- (5) Educational Aid Fund, 31 December 1975.

Please advise the Chief, Audit Staff of action taken on recommendations contained in the reports.

We wish to express our appreciation again for the cooperation extended to the auditors during the audits.

STATINTL

Chief, Audit Staff
Office of Inspector General

Attachments:

5 Audit Reports as stated

Distribution:

Orig - D/OP

1 - DDA

1 - O/Compt

1 - O/IG

REPORT OF AUDIT
Employee Activity Association

For the Period
1 January 1974 - 31 December 1975

SCOPE OF AUDIT

We examined the balance sheet of the Employees Activity Association (EAA) and related statements of income and expense for the fiscal years ended 31 December 1975 and 1974. We also reviewed EAA operations for compliance with applicable Agency and Federal regulations.

BACKGROUND INFORMATION

The Employee Activity Association, Inc. (EAA) administers a variety of activities for the general benefit and welfare of members. They sponsor social, educational, and athletic clubs; operate a retail store and ticket service; and administer the Agency exercise room and the Central Employees Activity Fund (CEAF). The Agency provides two staff employees, on a reimbursable basis, to the store; four contract employees are assigned to other activities of EAA at no cost.

The EAA Board of Directors has five members. Four are elected representatives of sponsored clubs; the fifth, a member-at-large, is appointed by the Director of Personnel. The Chief, Benefits and Services Division, Office of Personnel, directs the operation of the store with the guidance of his supervisor and the President of the Board. Board actions generally are limited to approval of the annual budget and the store's inventory levels.

SUMMARY OF FINANCIAL OPERATIONS

The net worth of EAA at 31 December 1975 was \$147,020. Net income of \$17,262 in 1975 and \$16,678 in 1974 was derived principally from store operations. Financial statements for Fiscal Years 1975 and 1974 are attached as Exhibits A and B.

AUDIT OBSERVATIONS

The store is managed efficiently and EAA financial controls, procedures and records are effective. Minor matters requiring correct action were resolved during the audit.

During the audit period the President of the Board of Directors invested EAA funds, borrowed monies from the Credit Union for EAA, and appointed a store manager. The by-laws are not clear as to the President's authority to act unilaterally in these matters. We suggest the President obtain clarification of the by-laws from the Office of General Counsel (OGC) or ask the Board of Directors to delegate the necessary authorities.

The Board of Directors is considering the accumulation of cash and investments which now exceed \$150,000 and plans to formalize its position on the disposition of these funds.

The Office of Personnel (OP) details five employees to EAA. The authority for this policy is discussed in a memorandum dated 17 February 1967 from the then Director of Personnel to the then Deputy Director for Support. The memorandum cited three reasons in support of OP's present policy as follows:

a. The Agency, as well as other Government agencies, historically has offered employees certain recreational opportunities of a club, athletic, and cultural nature.

b. Close Agency review and support of such a program stems from the security implications of participation by Agency personnel in these activities in non-Agency groups.

c. An EAA program of this scope and nature has long been considered to be an Agency activity comparable to that afforded by other Federal agencies, and, to this extent, appears appropriate that the Agency support these activities from appropriated funds.

We are concerned whether either (a) or (c) constitutes appropriate legal authority. Each federal agency stands alone in obtaining appropriated funds for authorized purposes.

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To our knowledge there is no general authority for any Agency to support a recreational program in the absence of specific appropriation authority. We suggest OP request Office of General Counsel guidance on this point. One possibility would be to obtain this authority by having the Office of Comptroller specifically request the necessary funds from Congress.

Reason (b) cites, in effect, the Director's special authority to expend funds for confidential purposes. If it is decided to rely on this authority alone, it may be appropriate to present the matter to the DCI for his approval. The memorandum of 17 February 1967 did not request approval of the DCI or the Executive Director/Comptroller for the continuance of assigning staff employees to EAA.

Employees Activities Association
Balance Sheet

31 December 1975

ASSETS

Cash on Hand and in Bank	\$ 65,713
Savings and Investments	84,782
Inventory, at cost	26,235
Prepaid Expenses	627
Equipment, net of Accumulated Depreciation	4,227
Central Employee Activity Fund	
Funds Held in Trust	\$82,742
Less: Due Fund	<u>82,742</u>
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Total Assets	<u>\$181,584</u>

LIABILITIES AND NET WORTH

Accounts Payable	\$ 25,360
Taxes Payable	2,993
Deposits on Special Orders	133
Accrued Expenses	6,078
Net Worth:	
Balance, 1 January 1974	\$112,704
Net Income 1974	16,678
Net Income 1975	17,262
ADD: Adjustments against prior years earnings	376
Balance, 31 December 1975	<u>147,020</u>
Total Liabilities and Net Worth	<u>\$181,584</u>

Exhibit B

Employee Activity Association
 Comparative Statement of Income & Expense
 For the Years Ended 31 December 1975 and 1974

	<u>1975</u>	<u>1974</u>
Merchandise Sales	\$347,702	\$307,891
Cost of Goods Sold	298,738	256,973
Gross Profit on Sales	<u>48,964</u>	<u>50,918</u>
STAT		
Other Income		
Membership Dues	[redacted]	[redacted]
Interest Income	4,629	3,342
GSI Barbershop	2,832	2,048
Ticket Sales and Club Activities Net	<u>3,917</u>	<u>3,590</u>
Total Other Income	<u>25,461</u>	<u>22,528</u>
Total Income	74,425	73,446
Other Expenses		
General and Administrative	43,519	45,461
Employee Programs	<u>13,644</u>	<u>11,307</u>
Total Other Expenses	<u>57,163</u>	<u>56,768</u>
Net Income	<u>\$ 17,262</u>	<u>\$ 16,678</u>

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MEMORANDUM FOR THE RECORD

1 November 1951

SUBJECT: Use of Appropriated Funds for Recreational Facilities

1. The use of appropriated funds for recreational facilities, unless expressly authorized in the Appropriation Act, is restricted by 31 U.S.C. 628 which provides: "Except as otherwise provided by law, sums appropriated for the various branches of expenditure in the public service shall be applied solely to the objects for which they were respectively made, and for no others."

2. The leading Comptroller decision on the subject is found in 18 Comp. Gen. 147. Comptroller-General's opinion was requested on the suitability of providing recreational facilities for civilian employees engaged in a river and harbor project at Midway Island. There were no civilian recreational facilities available on the island. Nevertheless, the Comptroller General held: "The use of appropriated funds for the furnishing of recreational and entertainment facilities for Government personnel is unauthorized in the absence of specific statutory authority or authority by necessary implication, notwithstanding it may be highly desirable to furnish such facilities because of the absence thereof otherwise and the location of the work -- in this case, a river and harbor appropriation project at Midway Island."

...while it appears that the proposed expenditures would provide recreational and entertainment facilities for the employees, there has been no showing made or even any allegations that such expenditures are reasonably within the purview of the appropriation for rivers and harbors improvements proposed to be used for the prosecution of the project in question, or that such expenditures are essential in, or even reasonably incident to, prosecuting the project.

3. This decision was verified in 27 Comp. Gen. 679 where the Navy Department, seeking to provide a recreational supervisor for its civilian employees, relied for authority to expense such sums upon an Executive Order which stated, "The head of each agency in accordance with applicable statutes, Executive Orders, and rules, shall be responsible for personnel management in his agency."

The Comptroller General held: "While recreational and entertainment programs for civilian employees at field activities of the Navy Department may be administratively desirable, they have at most only an indirect bearing upon the purposes for which the Department's appropriations were made, and, in the absence of a clear legislative expression that appropriated funds be used in connection with such programs, the use thereof for the payment of salaries of civilian personnel--either on a full time or part time basis--to develop, organize, and supervise employee recreational activities is not authorized."

4. Two unpublished decisions verify the holdings of the above cases, but give a wider latitude of facts to which we may match applicable situations. In a decision of 14 October 1943 (B-37344) the Comptroller General disapproved a voucher in the sum of \$34.50 for the purchase of basketballs, baseballs, and other inexpensive recreational facilities to be used in civilian employee camps located in a national forest under the U. S. Forest Service. The camp in question was located more than a one hour drive from any community and it was contended that boredom from the lack of recreational facilities was causing a large and expensive labor turnover in a tight labor market.

The Service relied for authority upon this language in their appropriation act: "Sum may be expended for expenses necessary to enable the Secretary to carry out the purposes of the Act entitled 'an Act for forest protection against the white pine blister rust'."

The Comptroller General held: "While the furnishing of such equipment may be highly desirable, particularly under the conditions set forth in the statement of the Acting Regional Forester, they constitute expenses which are personal to the employees rather than chargeable to appropriated funds."

5. In B-49169, May 5, 1945, the Comptroller General disallowed a voucher in the sum of \$15.30 submitted by a certifying officer of the Bonneville Power Administration for the rental of a movie film. This film was to be used for entertaining employees at a camp where there was no permanent population, no stores, no post office, and no facilities for recreation and entertainment. The closest town was 35 miles distant.

The disbursing officer stated familiarity with 18 C.G. 147 but felt that since the Bonneville Act granted the Administrator authority to make "such expenditures for offices, vehicles, furnishings, equipment, supplies and books, for attendance at meetings, and such other facilities and services as he may find necessary for the proper administration of the Act", such an expenditure was legitimate.

Notwithstanding the broad terms of this authority, the Comptroller, again referred to 31 U.S.C. 28, stated, "Since there is nothing in the appropriation...which reasonably may be construed as making the appropriation available for the furnishing of entertainment facilities to its employees, there would appear to be no sound basis for departing from the rule of 18 C.G. 147 and such being the case, it must be held that an expenditure of the nature here involved is not authorized."

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Concerning the terms of the broad authority, he rejoined that, "There is believed to be no room for doubt that such authority is not sufficient to render appropriate funds available for any items of expenditure the Administrator may approve, regardless of its nature, but that it is to be limited to expenditures the purposes of which bear a direct relationship to the purposes to be accomplished by said Act, namely, the production, transmission and marketing of electrical energy."

6. It will be seen from the tenor of these decisions that expenditures for recreational facilities, whether in the form of providing properties or supervision, is extremely limited without express authority in an appropriation act.

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